

BEFORE THE  
BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke  
Probation Against:

ROBERT ROLAND BALDISSERI  
507 Indian Way  
Novato, California 94949

Pharmacist License No. RPH 26360

Respondent.

Case No. 2827

OAH No. N2005030135

**PROPOSED DECISION**

On May 9, 2005, in Oakland, California, Perry O. Johnson, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Respondent Robert Roland Baldisseri appeared at the hearing, but he was not otherwise represented.

Joshua A. Room, Deputy Attorney General, represented Complainant Patricia F. Harris, Executive Officer, Board of Pharmacy, Department of Consumer Affairs, State of California.

On May 9, 2005, the parties submitted the matter and the record closed.

**STIPULATION**

On May 9, 2005, Respondent entered into a written stipulation whereby he agreed, among other things, that he admitted "the truth of each and every charge and allegation in Petition to Revoke Probation No. 2827, and [he] agrees that cause exists for discipline" against Pharmacist License No. RPH 26360.

**FACTUAL FINDINGS**

1. On January 26, 2005, Patricia F. Harris (Complainant), in her official capacity as Executive Officer, Board of Pharmacy, Department of Consumer Affairs, State of

California, filed a Petition to Revoke Probation against Robert Roland Baldisseri (Respondent).

### *License History*

2. On November 6, 1969, the Board of Pharmacy (Board) issued Pharmacist License number RPH 26360 to Respondent. The license issued to Respondent was in full force and effect at all times relevant to the matters raised in the Petition to Revoke Probation.

### *History of Past Disciplinary Action*

3. On June 1, 2000, under Accusation number 2249, the Decision and Order of the Board, which adopted a Stipulation in Settlement as assented to by Respondent on January 27, 2000, became effective. The Board's Decision and Order revoked Respondent's pharmacist license, but stayed the revocation and placed Respondent's Pharmacist License No. RPH 26360 on probation for a term of five years, subject to certain terms and conditions. The terms and conditions included requirements that: (i) Respondent successfully complete the Pharmacist Recovery Program, which was set out as condition number two; (ii) Respondent abstain from drug use, which was set out as condition number four; (iii) Respondent abstain from use of alcoholic beverages, which was set out as condition number five; (iv) Respondent obey all laws pertaining to pharmacy practice, which was set out as condition number seven; and (v) Respondent maintain an active, current license with the Board during all times while the license was on probation, which was set out as condition number 17.

4. On May 16, 2000, Respondent met with a Board representative and then signed a declaration that set out that "[t]he terms and conditions of ... probation have been fully explained to [him].... [Respondent acknowledged] that [he] thoroughly [understood the] terms and conditions as set forth in the disciplinary action and that failure to comply may result in further disciplinary action."

On January 23, 2003, at another meeting with a Board representative, Respondent again signed a declaration that contained identical language to the declaration he had executed in May 2000.

### *Violation of Terms and Conditions of Probation Pursuant to Stayed Revocation of Pharmacist License*

5. After June 1, 2000, when the Board stayed revocation of his pharmacist license on his promise to comply with terms and conditions of probation, Respondent committed acts or omissions that show his violation of the terms and conditions of probation of his license.

6. In violation of Condition Two of the Stipulated Agreement, Respondent failed to complete the Pharmacist Recovery Program.

On November 1, 2004, Maximus, the administrator of the Pharmacist's Recovery Program (PRP), sent the Board personnel a relapse occurrence report that pertained to Respondent. The report included Respondent's urine drug screen test as taken on October 15, 2004. The test showed a positive for opiates, narcotics (hydrocodone). A validity test confirmed Respondent's ingestion of Hydrocodone. On November 1, 2004, the Board personnel received a second relapse occurrence report. That subsequent report included a summary of Respondent's admission that he had used Hycodan cough syrup on October 14, 2004. Also, the second report reflected Respondent's admission that the previous weekend he had relapsed by consuming a half bottle of vodka to the point of requiring his hospitalization.

On November 2, 2004, the clinical case manager for Maximus discharged Respondent from the PRP on a determination that Respondent had failed to derive benefit from the recovery program. The report by the PRP administrator's clinical case manager presented the opinion that Respondent represented a risk to the public in a role as a practicing pharmacist.

Also, on November 2, 2004, Board Inspector Richard C. Iknoian met with Respondent to make inquiry of Respondent's non-compliance with the terms and conditions of probation. Respondent signed a declaration that reflected admissions by Respondent of his abuse of alcoholic beverages and his use of a controlled drug.

7. In violation of Condition Four of the Stipulated Agreement, Respondent failed to abstain from drug use.

On October 14, 2004, while on duty as a pharmacist at the Yulupa Safeway Store in Santa Rosa, Respondent self-medicated with Hycodan syrup by drinking about a half ounce of the medication.

8. In violation of Condition Five of the Stipulated Agreement, Respondent failed to abstain from use of alcoholic beverages. In particular, on January 29, 2004, police with the Novato Police Department took Respondent into custody when he was discovered at a public bus stop while he was in a state of intoxication by which police officers concluded that Respondent was not able to care for himself. Police arrested Respondent for violation of Penal Code section 647, subdivision (f) (Public Intoxication).

9. In violation of Condition 17 of the Stipulated Agreement, Respondent failed to maintain an active, current pharmacist license for the entire period of probation (that is, June 1, 2000 to June 1, 2005). Respondent's pharmacist license expired on March 31, 2005, and the license had not been renewed by the date of the hearing of this matter.

10. In violation of Condition Seven, Respondent failed to obey all conditions of probation and to obey all laws by way of the matters set out in Factual Findings 6, 7, 8, and 9.

*Evidence by the Board's Inspector/ Probation Monitor*

11. Ms Anne Sodergren, Staff Manager with the Board's Diversion Program, came to the hearing to offer credible evidence. She gave a comprehensive overview of the Board's Pharmacist Recovery Program as now administered by a private company called Maximus. Also, Ms Sodergren expressed her detailed knowledge of Respondent's dereliction of duties placed on him by the Board's Decision and Order from June 2000.

12. Richard Charles Iknoian came to the hearing of this matter to offer persuasive and compelling evidence. His manner of providing evidence, his solemn demeanor towards the proceedings and the consistency of his testimony show Mr. Iknoian to be a credible<sup>1</sup> and reliable witness.

Mr. Iknoian, the Board's Inspector, interviewed Respondent and made an independent assessment of Respondent's failure to comply with the terms and conditions of probation.

Respondent made an admission to Mr. Iknoian that he had taken hydrocodone in a cough syrup when he did not possess a prescription from a physician to take the controlled substance. Thereon, Mr. Iknoian concluded that Respondent's use of the drug reflected, at a minimum, poor judgment. The Board inspector reasonably determined that such poor judgment might contribute to Respondent's engaging in other acts or omissions that could adversely affect the public.

Mr. Iknoian heard Respondent explain that after he was terminated from the Pharmacist Recovery Program, he was very depressed and desperate. Respondent told the Board's inspector that he had turned to alcohol to sooth his emotional upheaval during stressful times in his life.

Mr. Iknoian, who is a licensed pharmacist, concurred with the determination by the PRP administrator's clinical case manager that Respondent's recent record of abuse of alcoholic beverages and use of a controlled drug tended to indicate that Respondent is a danger or risk to the public health, safety and welfare.

*Matters in Mitigation*

13. Respondent has been a pharmacist for more than 35 years.

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<sup>1</sup> Government Code section 11425.50, subdivision ( b), third sentence.

Over the years, Respondent has received a number of awards and certificates from a wide array of medical societies and foundations for his devoted work as a pharmacist.

14. Respondent compellingly states that he did not resort to alcohol to any great degree until his father committed suicide in 1991.

15. Before his relapse in October 2004, Respondent had spent four years committed to pursuit of sobriety and abstinence from alcohol.

16. On October 14, 2004, Respondent reported to work at a Safeway Store in Santa Rosa when he was experiencing flu-like symptoms, including fatigue. Respondent poured about an ounce of Hycodan syrup into a Dixie cup and consumed the medication that contained hydrocodone.<sup>2</sup> He used the Hycodan syrup "because it contained homatropine, which was added to limit the consumption of hydrocodone." After taking the medication, he "felt more calm, less anxious, less fear," and the medication masked the flu symptoms he had experienced.

17. The day after he self-medicated with Hycodan syrup, Respondent was summoned to take a drug test on October 15, 2004. Two weeks later, the clinical case manager for the PRP administrator, on October 29, 2004, telephoned Respondent to inform him that due to a positive drug test that Respondent must leave the pharmacy at the Safeway Store where he worked. Respondent then learned that he was terminated from the Board's diversion program (PRP). On November 2, 2004, Respondent learned that Safeway had suspended him as an employee.

Over the course of the weekend following the termination of his enrollment in the PRP, Respondent experienced depression and great emotional upheaval. Respondent turned to a bottle of vodka to calm down. But by consuming a half bottle, Respondent fell into a condition that prompted his wife to call paramedics. The medical personnel transported Respondent to the emergency room of a Sutter Hospital in Novato. Because his wife expressed reservations to Respondent's returning from the hospital, Marin County deputy sheriffs took Respondent to the county jail, where he remained until about shortly after midnight on the morning of November 1, 2004. Later on the day of his release from jail, Respondent went to the office of his psychiatrist, who prescribed him Seroquel 100 mg and Nefazodone 100 mg. The medications were to alleviate Respondent's panic attacks and anxiety.

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<sup>2</sup> Hydrocodone is a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e). Also, it is a dangerous drug pursuant to Business and Professions Code section 4022. Hydrocodone is a semisynthetic narcotic analgesic and antitussive with multiple actions qualitatively similar to codeine.

Hycodan syrup is a controlled substance and a dangerous drug under the afore-cited statutory provisions. Hycodan is a semisynthetic centrally-acting narcotic (opiod) antitussive that contains hydrocodone bitartrate.

18. When the term of his license expired on March 31, 2005, Respondent was aware of the pending proceedings on the Petition to Revoke Probation. Although he had taken the requisite continuing education courses, Respondent did not wish to pay a fee for the renewal of a license that he might soon lose.

19. Respondent asserts that he has been careful to not drink and drive. He has never been apprehended for any DUI.

20. No evidence exists to show that Respondent has forged or written false prescriptions for himself or others.

21. Respondent compellingly represents that a report from Maximus is erroneous when it set forth that he used Hycodan "once in a while at work." He further asserts that the Maximus program neglected his concerns and personal needs in seeking to overcome his problem of alcoholism.

#### *Matters in Rehabilitation*

22. Respondent proclaims that he is an alcoholic. He has struggled with the "disease" for a number of years.

23. Respondent actively continues with psychiatric counseling.

24. Respondent fervently attends meetings of Alcoholics Anonymous (AA). He declares that he fervently believes in the tenets of the 12-step program of AA.

25. Respondent called one witness to the hearing – Mr. Steven N. Seidman, to offer evidence pertaining to Respondent's progress towards rehabilitation and Respondent's reputation for good character.

Mr. Seidman has known Respondent since 1976 when they worked in pharmacies in San Francisco. Since that time, Mr. Seidman has admired Respondent's professionalism as well as his compassion and good will for patients who have sought services from Respondent.

Mr. Seidman has had his own difficulties with alcoholic beverages. He has participated in AA for about 12 years, and he "graduated" from the Board's diversion program in 1997.

Currently, Mr. Seidman serves as Respondent's AA sponsor. The men see each other nearly every morning. Mr. Seidman knows that Respondent faithfully attends AA meetings about five times per week.

26. Respondent is married and he has the support of his wife, who sat next to Respondent during the course of the hearing of this matter.

27. Respondent welcomes another period of probation of his license to serve as a pharmacist in the State of California. He wishes a second chance to allow him to continue with the profession to which he has devoted so many years of faithful service.

#### *Matters in Aggravation*

28. Respondent acknowledges that the number of hours that he worked as a pharmacist for Safeway Stores caused him to experience stress and anxiety.

29. Respondent's reaction to news of a decision to terminate his enrollment in the Board's PRP was to turn to consumption of a large quantity of vodka. His acts show that he has not fully grasped the teaching of Alcoholics Anonymous.

#### *Ultimate Finding*

30. The weight of evidence shows that it would not be in the public interests to continue Respondent in a probationary license status and that the license to practice pharmacy as issued to Respondent must be revoked.

### LEGAL CONCLUSIONS

1. Business and Professions Code section 4300, subdivision (d), provides: "The board may initiate disciplinary proceedings to revoke or suspend any probationary certificate of licensure for any violation of the terms and conditions of probation...."

Respondent's acts and omissions prompted the Pharmacist Recovery Program's administrator to terminate Respondent from the diversion program during the term of probation of licensure. By his conduct, Respondent violated condition number 2 of the terms of probation.

Cause exists to sustain the Petition to Revoke Probation, pursuant to Business and Professions Code section 4300, subdivision (d), by reason of the matter set forth in Factual Findings 6 and 12 as well as the Stipulation entered into by Respondent on May 9, 2005.

2. Health and Safety Code section 11170 sets forth: "No person shall prescribe, administer, or furnish a controlled substance for himself."

Respondent failed to abstain from the illegal use of drugs during the period of probation of the license issued to him. By his conduct, Respondent violated condition number 4 of the terms of probation.

Cause exists to revoke probation of Respondent's currently disciplined license, pursuant to Business and Professions Code section 4300, subdivision (d), as it interacts with Health and Safety Code section 11170, by reason of the matters set out in Factual Findings 7 and 12 as well as the Stipulation entered into by Respondent on May 9, 2005.

3. Respondent failed to abstain from abuse of alcoholic beverages during the term of probation of his license. By his conduct, Respondent violated condition number 5 of the terms of probation.

Cause exists to sustain the Petition to Revoke Probation, pursuant to Business and Professions Code section 4300, subdivision (d), by reason of the matters set forth in Factual Findings 8 and 12 as well as the Stipulation entered into by Respondent on May 9, 2005.

4. Respondent failed to maintain an active, current pharmacist license during the full term of probation. By his conduct, Respondent violated condition number 17 of the terms of probation.

Cause exists to sustain the Petition to Revoke Probation, pursuant to Business and Professions Code section 4300, subdivision (d), by reason of the matter set forth in Factual Finding 9.

5. California Code of Regulations, title 16, section 1773, subdivision (a), provides: "Unless otherwise directed by the Board in its sole discretion, any pharmacist who is serving a period of probation shall comply with the following conditions: (1) obey all laws and regulations substantially related to the practice of Pharmacy...."

Respondent failed to obey all laws related to the practice of pharmacy during the term of probation of the license issued to him. By his conduct, Respondent violated condition number 7 of the terms of probation.

Cause exists to revoke probation of Respondent's license, pursuant to Business and Professions Code section 4300, subdivision (d), as it interacts with California Code of Regulations, title 16, section 1773, subdivision (a), by reason of the matters set out in Factual Finding 6, 7, 8, 9 and 10.

6. In the last year of probation of his license, Respondent consumed a controlled drug without a prescription having been issued by a medical doctor. Also during that time, Respondent resorted to use of an alcoholic beverage to supposedly help him cope with the stress of his discharge from the Board's diversion program. Although Respondent has many years of work as a pharmacist, events in recent years may be affecting him so that he should temporarily withdraw from the stress of work while he expends time and energy to fully recovery from his long history of dependency on alcoholic beverages.



Respondent's best interests may be served through devotion of his undivided attention to recovery from the disorder or disease of alcoholism through Alcoholics Anonymous or other behavior modification therapy or counseling.

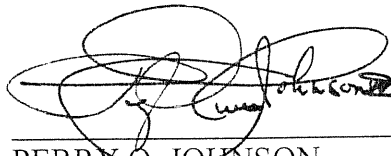
Under the facts and circumstances of Respondent's conduct as set out above, it would not be consistent with the public interest to grant Respondent the benefit or privilege to retain a probationary license to work as a pharmacist.

#### ORDER

Pharmacist License number RPH 26360 issued to Robert Roland Baldisseri is revoked by reason of Legal Conclusions 1, 2, 3, 4 and 5, separately and jointly.

Pursuant to the Stipulation in Settlement, dated January 27, 2000, the probation previously granted by the Board under Accusation number 2249 is revoked. The disciplinary order that was stayed is now imposed, which hereby revokes Pharmacist License number RPH 26360 as issued to Robert Roland Baldisseri.

DATED: May 31, 2005

A handwritten signature in black ink, appearing to read "Perry O. Johnson", is written over a horizontal line.

PERRY O. JOHNSON  
Administrative Law Judge  
Office of Administrative Hearings  
State of California

BEFORE THE  
BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke  
Probation Against:

ROBERT ROLAND BALDISSERI  
507 Indian Way  
Novato, California 94949

Pharmacist License No. RPH 26360

Respondent.

Case No. 2827

OAH No. N2005030135

DECISION

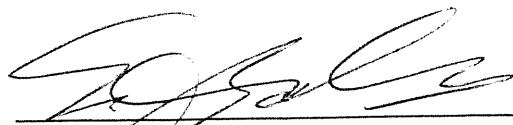
The attached Proposed Decision of the Administrative Law Judge is hereby  
adopted by the Board of Pharmacy as its Decision in the above-entitled matter.

This Decision shall become effective on July 28, 2005.

IT IS SO ORDERED June 28, 2005.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



STANLEY W. GOLDENBERG  
Board President

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8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Petition to Revoke Probation  
11 Against:

Case No. 2827

12 ROBERT ROLAND BALDISSERI  
13 507 Indian Way  
Novato, California 94949

**PETITION TO REVOKE  
PROBATION**

14 Pharmacist License No. RPH 26360

15 Respondent.

16 Complainant alleges:

17 PARTIES

18 1. Patricia F. Harris (Complainant) brings this Petition to Revoke Probation  
19 solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of  
20 Consumer Affairs.

21 2. On or about November 6, 1969, the Board of Pharmacy issued Pharmacist  
22 License No. RPH 26360 to Robert Roland Baldisseri (Respondent). The Pharmacist License was  
23 in full force and effect at all times relevant to the charges brought herein and will expire on  
24 March 31, 2005, unless renewed.

25 JURISDICTION

26 3. This Petition to Revoke Probation is brought before the Board of  
27 Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws.  
28 All section references are to the Business and Professions Code unless otherwise indicated.



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1                   16.     On or about October 31, 2004, Respondent was transported to Novato  
2 Community Hospital by paramedics due to symptoms related to his intoxication. While there, he  
3 was taken into custody by the Novato Police Department, when the responding officer(s)  
4 determined that Respondent was unable to care for himself. He was arrested for violation of  
5 Penal Code section 647(f) (public intoxication). The Office of the District Attorney for Marin  
6 County declined to file charges, in the interest of justice.

7                   17.     On or about November 2, 2004, Respondent was terminated from the  
8 Pharmacist Recovery Program for "failure to benefit" based upon documented instances of  
9 relapse (including those described in paragraphs 13-16, above,) and Respondent's admission of  
10 using a controlled substance (Hycodan) while on duty (paragraph 13, above).

11  
12                                   FIRST CAUSE TO REVOKE PROBATION

13                                   (Failure to Comply with Disciplinary Conditions of Probation)

14                   18.     Effective June 1, 2000, Condition 2 of Respondent's probation required:  
15                   **Rehabilitation Program: Pharmacist Recovery Program (PRP).** Within thirty  
16 (30) days of the effective date of this Decision, respondent shall contact the  
17 Pharmacist Recovery Program for evaluation and shall contact the Pharmacist  
18 Recovery Program for evaluation and shall successfully participate in and  
19 complete the treatment contract and any subsequent addendums as recommended  
20 and provided by the PRP and as approved by the Board. The costs for PRP  
21 participation shall be borne by the respondent. Probation shall be extended  
22 automatically until respondent successfully completes his treatment contract.

23                   19.     Respondent's probation is subject to revocation pursuant to section 4300,  
24 subdivision (d) of the Code, in that he failed to comply with Probation Condition 2, referenced  
25 above. The facts regarding this violation are described in paragraphs 13-17, above.

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27     ///

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1                   25.     Respondent's probation is subject to revocation pursuant to section 4300,  
2 subdivision (d) of the Code, in that he failed to comply with Probation Condition 7, referenced  
3 above. The facts and circumstances regarding this violation are as follows:

4                   A.     As described in paragraphs 12 and 16, above, Respondent was on  
5 two occasions intoxicated in public to the extent that he was determined to be unable to care for  
6 his own safety or the safety of others, a violation of Penal Code section 647(f);

7                   B.     As described in paragraph 13, above, on or about October 14, 2004  
8 Respondent, while on duty as a pharmacist, dispensed and administered to himself the controlled  
9 substance Hycodan (containing Hydrocodone) without a prescription, a violation of Business and  
10 Professions Code section 4327 and/or Health and Safety Code section 11170.

11  
12                                   FIFTH CAUSE TO REVOKE PROBATION

13                                   (Failure to Obey Laws Related to Practice of Pharmacy)

14                   26.     Respondent's probation is subject to revocation pursuant to section 4300,  
15 subdivision (a) of the Code, and/or California Code of Regulations, title 16, section 1773, in that  
16 while serving a period of probation he failed to obey all laws and regulations substantially related  
17 to the practice of pharmacy. The facts and circumstances regarding this violation are as follows:

18                   A.     As described in paragraphs 12 and 16, above, Respondent was on  
19 two occasions intoxicated in public to the extent that he was determined to be unable to care for  
20 his own safety or the safety of others, a violation of Penal Code section 647(f);

21                   B.     As described in paragraph 13, above, on or about October 14, 2004  
22 Respondent, while on duty as a pharmacist, dispensed and administered to himself the controlled  
23 substance Hycodan (containing Hydrocodone) without a prescription, a violation of Business and  
24 Professions Code section 4327 and/or Health and Safety Code section 11170.

25  
26                                   PRAYER

27                   WHEREFORE, Complainant requests that a hearing be held on the matters herein  
28 alleged, and that following the hearing, the Board of Pharmacy issue a decision:



1. Revoking the probation that was granted by the Board of Pharmacy in Case No. 2249 and imposing the disciplinary order that was stayed, thereby revoking Pharmacist License No. RPH 26360 issued to Robert Roland Baldisseri;
2. Revoking or suspending Pharmacist License No. RPH 26360, issued to Robert Roland Baldisseri;
3. Taking such other and further action as is deemed necessary and proper.

DATED: 1/26/05

*P. F. Harris*  
 PATRICIA F. HARRIS  
 Executive Officer  
 Board of Pharmacy  
 Department of Consumer Affairs  
 State of California  
 Complainant

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